

Submitted September 14, 2013
Approved as of
Date September 14, 2013

MINUTES OF THE ROCKVILLE BOARD OF APPEALS
MEETING NO. 04-13
Saturday, April 13, 2013

The City of Rockville Board of Appeals convened in regular session in the Mayor and Council Chambers at 9:00 a.m., Saturday April 13, 2013.

PRESENT

Steven Wilcox, Chair
Peter Mork
W. Thomas Curtis, Alternate

Staff Present: Cindy Walters, Senior Assistant City Attorney
Jim Wasilak, Chief of Planning
Bobby Ray, Principal Planner
Cas Chasten, Planner III
Margaret Hall, Planner III

I. NEW BUSINESS

Election of a new Board Chairman, to fill the remaining term of former Chair, Stephen Ravas for the 2013 Meeting Calendar Year.

Dr. Mork moved, seconded by Dr. Wilcox to nominate W. Thomas Curtis as the new Chair of the City of Rockville's Board of Appeals. The motion passed 3-0.

Chair Curtis announced that at 10:00 a.m. on Saturday, May 4, 2013, Peerless Rockville will be conducting the final Historical Preservation & Urbanization series at the Saddle Ridge Community Center. The series will conclude with a panel discussion on May 9, 2013.

II. PUBLIC HEARING

A. Variance Application VAR2013-00035, Dominic Argentieri & Megan Dankovich, 315 Great Falls Road – A side yard setback variance requested to allow construction of an attached garage to encroach 8 feet into the 11 feet setback required in the R-90 (Single Unit Detached Dwelling (Restricted Residential) Zone.

Margaret Hall presented the staff report.

Shawn Buehler, architect for the applicant, stated that there are peculiar conditions to the site including, 1) the setback of the house is far away from the street, 2) several trees on the lot have been designated historic, 3) the small backyard prevents building out, but only up to a two-story structure. He answered questions from the Board.

Dr. Mork moved, seconded by Dr. Wilcox, to accept VAR2014-00035, for the reasons stated in the Staff Report. The motion passed 3-0.

- B. Special Exception Application SPX2012-00385, Potomac Valley Nursing Facilities, Inc. (PVNF), 1235 Potomac Valley Road** – A modification of previously approved Special Exception Applications S-50-61 and SPX1996-0245. This major amendment to the home's existing special exception will be limited to operational/staffing changes, site modifications to landscaping, installation of new site signage, stormwater management improvements, forest conservation, expansion of on-site vehicular parking, replacement of an emergency generator, and increased site storage. The property is approximately 4.5 acres in size and zoned for R-90 (Single Unit Detached Dwelling (Restricted Residential) land usage.

Cas Chasten presented the staff report.

Mark Wetterhahn, attorney for Martin and Ann Reese of 9 Don Mills Ct. (their property's rear boundary abuts Potomac Valley's property) asked the Board to admit them as a full party of this proceeding as they submitted a petition with no objection.

The Board agreed.

Tim Dugan with Shulman Rogers, attorney for the applicant, began by first introducing the Affidavit Posting to the Board as Exhibit 48. He also named the speakers/witnesses that would offer their testimony and provided additional documentation to the Board and Staff.

Dr. Mork moved, seconded by Dr. Wilcox to accept the Affidavit of Posting into the record as Exhibit 48. The motion passed 3-0.

The following speakers provided expert witness testimony:

William Landfair, Senior Planner with VIKA, provided an overview of the Potomac Valley Nursing Facility (PVNF) property and surrounding neighborhood and concluded that the Board of Appeals had previously found that it is consistent with the natural and built environment, appropriately scaled and designed. The amendment still continues to comply with all the R-90 Zone minimum development standards. He also spoke on the location of the sheds to be replaced and those that will remain and the impact or change in view due to the change.

He answered questions from Mr. Dugan as well as Mr. Wetterhahn (who posed questions regarding the installation of pavement to the PVNF property without permission via a Special Exception from the City).

Michelle Upchurch, Licensed Nursing Home Administrator for PVNF began her testimony by stating that PVNF has no plans to increase the number of beds in their facility. Their only plan is to make cosmetic upgrades to the interior. She provided an overview of the operation of the facility from staffing hours of operation, deliveries, use of the sheds, noise from the trash compactor, and explained what is stored in the sheds. She answered questions from the Board as well as from Mr. Dugan and Mr. Wetterhahn (his questions were centered on the sheds and their contents, how they're utilized, proposed improvements and relocation).

The meeting recessed for thirty minutes.

Meredith Byer, Landscape Architect with VIKa provided testimony on the proposed language and the lighting plan for PVNF. She answered questions from the Board as well as from Mr. Dugan and Mr. Wetterhahn (his questioning was centered on the proposed fencing).

Elise Cary, Assistant City Forester, stated that the project has received approval of a preliminary forest conservation plan and meets the requirements of the forest and tree preservation ordinance. She also answered questions from the Board.

Jeff Amateau, Civil Engineer with VIKa, answered questions from Mr. Dugan pertaining to the Storm Water Management Plan for PVNF as it relates to water drainage, asphalt will be pervious pavement in new parking area with 13 spaces, while the remaining will be impervious. He answered questions from the Board as well as Mr. Wetterhahn.

Gabe Kosarek, Civil Engineer with Public Works, answered questions regarding the function of the Don Mills Court infiltration basin's downstream flooding system.

Scott Harvey, Acoustical Engineer with Phoenix Noise and Vibration, stated the cooling tower and emergency generator, with their acoustical enclosures, will be able to operate according to the County noise ordinance. He answered questions from the Board and Mr. Wetterhahn regarding the materials used to construct the sound barrier walls.

Carl Starkey, Senior Transportation Engineer with Street Traffic Studies of Glen Burnie, MD, answered questions regarding changes to trip generation with the additional 30 employees. He said site access was adequate and that PVNF will not impose a nuisance as it relates to traffic. He answered questions from the Board and Mr. Wetterhahn.

There were no further expert witness testimony.

Mr. Dugan summarized the following points of the special exception amendment and answered questions from the Board.

- A. Increase daytime staff by thirty,
- B. Increase parking by thirty spaces,
- C. Replace and relocate generator with a larger one,
- D. Replace and relocate proposed accessory buildings,
- E. Addition of 17 trees in various locations,
- F. Strategic location of 24 evergreens to buffer the view,
- G. Construction a pedestrian walkway,
- H. Storm water micro-retention.

The meeting recessed for 10 minutes.

Mr. Wetterhahn interviewed Martin Reese of 9 Don Mills Ct., who is not in favor of this Special Exception application. Mr. Reese stated that he is having issues with erosion caused by storm water drainage from PVNF onto their property and has, to date, invested \$7,400 to rectify the problem. Mr. Reese also answered questions from the Board and both attorneys.

Dr. Wilcox moved, seconded by Dr. Mork, to not conduct a site visit. The motion passed 3-0.

Dr. Mork moved, seconded by Dr. Wilcox, to approve SPX2012-00385 for 1235 Potomac Valley Road, for the reasons listed in the Staff Report, subject to the restrictions listed in the Staff Report, with the following additions to those conditions. Condition #8 shall be amended to also say, "As part of this planting of the southern face of shed #1 shall be buffered and the overflow line restored to the extent determined possible by the City Forrester." A new Condition #9 will read, "The existing fence along applicant's southern and eastern property lines shall be replaced with an 8 ft. view-blocking fence compatible with the neighborhood." Finally, Condition #10 will read, "The sound wall surrounding the existing cooling tower shall use materials consistent with the local architecture." The motion passed 3-0.

III. DECISIONS - None

IV. OLD BUSINESS - None

V. MINUTES - None

VI. ADJOURNMENT - None

There being no further business to come before the Board, the Chair adjourned the meeting at 3:43 p.m.

Respectfully Submitted

Sandra Y. Driver, Commission Secretary